



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

July 14, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**HEARING ON THE RENEWABLE ENERGY ORDINANCE
PROJECT NO. R2014-01160-(1-5)
ADVANCE PLANNING NO. 201400004-(1-5)
(ALL SUPERVISORIAL DISTRICTS) (3-VOTES)**

SUBJECT

This action is to amend Title 22 (Planning and Zoning) of the Los Angeles County (County) Code to establish a set of procedures and standards for review and permitting of solar and wind energy projects. These include solar and wind projects generating energy for on-site (small-scale) or off-site (utility-scale) use as well as temporary meteorological towers.

IT IS RECOMMENDED THAT THE BOARD, AFTER THE PUBLIC HEARING:

1. Consider the attached Final Environmental Impact Report (EIR); find on the basis of the whole record before the Board of Supervisors (Board) that the significant adverse effects of the project, as described in the Final EIR, have either been reduced to an acceptable level or are outweighed by specific social, economic, legal, technological or other considerations of the project as stated in required California Environmental Quality Act Findings of Fact and Statement of Overriding Considerations for the project; find that the Final EIR reflects the independent judgment and analysis of the Board; and certify the Final EIR, and adopt the Findings of Fact and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program;
2. Approve the recommendation of the Regional Planning Commission (RPC) to amend Title 22 of the County Code as reflected in the draft Renewable Energy Ordinance (Ordinance) and as recommended by staff; and
3. Instruct County Counsel to prepare the final Ordinance amending Title 22 of the County Code as recommended by the RPC and bring them back to the Board for your consideration.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The State has enacted legislation to promote renewable energy development, which includes tasking local agencies to improve their review and permit processes for such development.

The technology associated with renewable energy systems, such as utility-scale photovoltaic and large turbine wind systems has advanced considerably in recent years. The County's Zoning Code (Title 22), has not been updated accordingly. Due to legislative mandates and market conditions, the County experienced a large influx of applications for utility-scale solar energy facilities. As these projects were reviewed and constructed, the County learned that these uses raise unique issues that warrant more specific permitting and development standards than presently exists in the County Code.

County Department of Regional Planning (DRP) staff started developing the proposed Ordinance. In June 2013, the County received a grant from the California Energy Commission to complete the Ordinance and associated EIR.

DRP recognizes that the Ordinance needs to set a high standard for environmental and community stewardship within the County. Therefore, the Ordinance has been developed to:

1. Encourage small-scale and structure-mounted projects, thereby reducing dependence on ground-mounted utility-scale projects; and
2. Better regulate ground-mounted utility-scale projects to minimize the associated impacts and address community concerns.

First, the Ordinance encourages small-scale projects for on-site use, and structure-mounted projects such as solar facilities over parking lots. The Ordinance accomplishes this by establishing a streamlined permitting process, and including minimal regulations to incentivize these types of projects. The permitting process and regulations are much simpler for these types of projects than ground-mounted utility-scale solar and wind energy facilities. Encouraging distributed generation¹ reduces dependence on ground-mounted utility-scale projects as sources for renewable energy.

Second, the Ordinance will better regulate ground-mounted utility-scale projects. The proposed Ordinance provides extensive regulations for ground-mounted utility-scale

¹ Distributed generation is a term commonly used in the renewable energy field. It refers to smaller scale systems with the focus on providing for the energy needs for the use on site. This model creates a dispersed systems of small installations.

projects, which reflect the need for careful review of these projects for environmental and community impacts. These regulations along with existing processes and policies will give the County the tools to effectively regulate these projects and provide clear expectations for applicants and the public on project outcomes. The Ordinance also limits the overall development of ground-mounted utility-scale projects in the County. In addition to reducing dependence on ground-mounted utility-scale projects by encouraging distributed generation, the Ordinance directs ground-mounted utility-scale projects away from the County's most sensitive areas.

The Ordinance establishes the County as a leader in promoting renewable energy development in a responsible and balanced manner.

Existing Zoning Regulations

Currently, Title 22 only provides a definition for temporary meteorological towers and small-scale wind energy systems, which is called a "wind energy conversion system, non-commercial (WECS-N)." No definitions exist for the other types of solar and wind energy projects.

As such, small-scale solar energy systems, and utility-scale solar and wind energy facilities are not listed as uses in Title 22. Small-scale solar energy systems are considered an accessory use and are permitted. Utility-scale solar and wind energy facilities are considered an "electric generating plant" and are generally processed through a Conditional Use Permit (CUP). Temporary meteorological towers and small-scale wind energy systems are listed as uses within Title 22, with temporary meteorological towers as a Director's Review and small-scale wind energy systems as a CUP in zones that allow them.

Title 22 only regulates temporary meteorological towers and small-scale wind energy systems. No specific regulations exist for small-scale solar energy systems and utility-scale solar and wind energy facilities.

Draft Ordinance

In summary, the Ordinance will accomplish the following:

- Revise and add definitions related to solar and wind energy projects;
- Provide the permitting process for each type of solar and wind energy project in each zone; and
- Establish regulations for each type of solar and wind energy project.

The Ordinance will revise and add definitions related to solar and wind energy projects. This is necessary as renewable energy is a relatively new technology, and Title 22 has not been updated accordingly. Establishing a clear and updated definition of each type of solar and wind energy project will provide clarity to DRP staff, applicants, and the public regarding the nature and scope of these projects.

The Ordinance will also establish the permitting process for each type of solar and wind energy project in each zone. The Ordinance will amend Title 22 so that the types of solar and wind energy systems and facilities are listed as uses in zones that allow them. Therefore, the permitting process for each type of solar and wind energy project in each zone will be clearer.

The Ordinance will also establish regulations for each type of solar and wind energy project. In addition to establishing limited standards for small-scale solar energy projects, the Ordinance will provide a more consistent approach for processing utility-scale solar and wind energy facilities by establishing development standards and conditions of approval that will give more guidance to DRP staff, applicants and the public. Based on past utility-scale projects and concerns heard from the community, DRP staff identified several key areas of focus for the utility-scale portion of the Ordinance, which include dust control, water use, aesthetics, safety, and biota impacts. Providing specific and enforceable provisions for each type of solar and wind energy project will help the County regulate these projects in a manner that minimizes impacts to the environment and surrounding communities.

Lastly, the Ordinance will amend other chapters in the County Code to update the Minor CUP process to require a public hearing in compliance with State law.

Consistency with the Countywide General Plan

The proposed Ordinance must be consistent with the County's General Plan. During the March 24, 2015, public hearing, the Board considered the 2035 General Plan, which will replace the 1980 General Plan. The Board indicated its intent to approve the 2035 General Plan and it is presently being reviewed by County Counsel and will return on consent shortly. The Ordinance has been analyzed for its consistency with the 2035 General Plan. The Ordinance supports and implements the following goals and policies of the 2035 General Plan:

- **Goal Land Use 6:** Compatible land uses that complement neighborhood character and the natural environment.
 - **Policy Land Use (LU) 6.1:** Reduce and mitigate the impacts of incompatible land uses, where feasible, using buffers and other design techniques.

- **Policy LU 6.4:** Ensure land use compatibility in areas adjacent to military installations and where military operations, testing, and training activities occur.
- **Policy LU 6.6:** Ensure airport operation compatibility with adjacent land uses through airport land use plans.
- **Policy LU 6.7:** Protect rural communities from the encroachment of incompatible development.
- **Policy LU 6.8:** Encourage land uses and developments that are compatible with the natural environment and landscape.
- **Policy LU 6.9:** Encourage development in rural areas that is compatible with rural community character, preserves open space, conserves agricultural land, and promotes efficiencies in services and infrastructure.
- **Goal Air Quality 1:** Protection from exposure to harmful air pollutants.
 - **Policy Air Quality 1.3:** Reduce particulate inorganic and biological emissions from construction, grading, excavation, and demolition to the maximum extent feasible.
- **Goal Conservation/Natural Resources 12:** Sustainable management of renewable and non-renewable energy resources.
 - **Policy Conservation/Natural Resources 12.1:** Expand the production and use of renewable energy resources.
- **Goal Parks and Recreation 6:** A sustainable parks and recreation system.
 - **Policy Parks and Recreation 6.2:** Support the use of alternative sources of energy, such as wind and solar sources to reduce the use of energy at existing parks.
- **Goal Public Services and Facilities 6:** A County with adequate public utilities.
 - **Policy Public Services and Facilities (PS/F) 6.5:** Encourage the use of renewable energy sources in utility and telecommunications networks.
 - **Policy PS/F 6.6:** Encourage the construction of utilities underground, where feasible.
 - **Policy PS/F 6.7:** Encourage projects that incorporate onsite renewable energy systems.
- **Goal Economic Development 1:** An economic base and fiscal structures that attract and retain valuable industries and businesses.
 - **Policy Economic Development 1.2:** Encourage and foster the development of the renewable energy economic sectors.

In addition, the proposed Ordinance is also consistent with other policies of the 2035 General Plan, including but not limited to:

- **Goal Conservation/Natural Resources 3:** Permanent, sustainable preservation of genetically and physically diverse biological resources and ecological systems including: habitat linkages, forests, coastal zone, riparian habitats, streambeds, wetlands, woodlands and SEAs.

- **Policy C/NR 3.8:** Discourage development in areas with identified significant biological resources, such as SEAs.
- **Goal Conservation/Natural Resources 5:** Protected and usable local surface water resources.
 - **Policy C/NR 5.1:** Support the Low Impact Development philosophy, which seeks to plan and design public and private development with hydrologic sensitivity, including limits to straightening and channelizing natural flow paths, removal of vegetative cover, compaction of soils, and distribution of naturalistic BMPs at regional, neighborhood, and parcel-level scales.
- **Goal Conservation/Natural Resources 13:** Protected visual and scenic resources.
 - **Policy C/NR 13.1:** Protect scenic resources through land use regulations that mitigate development impacts.
 - **Policy C/NR 13.2:** Protect ridgelines from incompatible development that diminishes their scenic value.
 - **Policy C/NR 13.3:** Reduce light trespass, light pollution and other threats to scenic resources.
 - **Policy C/NR 13.4:** Encourage developments to be designed to create a consistent visual relationship with the natural terrain and vegetation.
 - **Policy C/NR 13.5:** Encourage required grading to be compatible with the existing terrain.
- **Goal Public Services and Facilities:** Increased water conservation efforts.
 - **Policy PS/F 2.1:** Implement water conservation measures, such as drought tolerant landscaping and restrictions on water used for landscaping.

Consistency with Airport Land Use Plans (ALUP) or Airport Land Use Compatibility Plans (ALUCP)

The proposed Ordinance is also required to be consistent the adopted County ALUP, County Airport Land Use Commission (ALUC) Review Procedures, and General William J. Fox ALUCP. On April 22, 2015, the County ALUC found that the Ordinance was consistent with these plans and procedures.

Implementation of Strategic Plan Goals

The proposed Ordinance promotes Goal 1 of the County's Strategic Plan (Operational Effectiveness/Fiscal Sustainability) by establishing reasonable regulations and a clear permitting process for renewable energy projects, which will improve County's permitting processes and services. The Ordinance promotes Goal 2 (Community Support and Responsiveness) by effectively planning for and responding to the economic, social, and environmental challenges related to renewable energy. The proposed Ordinance strikes a balance between supporting renewable energy and

minimizing associated environmental impacts. Finally, the Ordinance promotes Goal 3 (Integrated Service Delivery) by establishing comprehensive and specific regulations aimed at addressing community concerns, which results in improved service delivery in the County. The Ordinance promotes the County's vision for improving the quality of life of its communities.

Ordinance Revisions

DRP staff is recommending additional revisions to the Ordinance.

The new provisions for temporary meteorological towers and small-scale wind energy systems that were originally proposed in the Ordinance are recommended to be replaced with the existing provisions in Part 15 (Non-Commercial Wind Energy Conversion Systems and Temporary Meteorological Towers) of the County Code.

This is necessary because of changes in State law, that now dictate that ordinances related to the installation of small wind energy systems must comply with Government Code §65893 et seq, which limits a local jurisdiction's ability to regulate small wind energy systems. A local jurisdiction's ordinance cannot impose regulations that are more restrictive than those listed in Government Code §65896. However, ordinances adopted prior to January 1, 2011, are exempt from Government Code §65893 et seq. Therefore, by retaining the existing small-wind energy systems provisions in Part 15 of the County Code, the County can better regulate small wind energy systems through its existing provisions. As the provisions related to impacts to birds and bats are silent in the State legislation, these proposed provisions will remain in the Ordinance.

Other sections of the Ordinance have also been revised as a result:

1. The permitting process for small-scale wind energy systems will remain as outlined in the existing County Code. The required permit has changed in certain zones. For example, small-scale wind energy systems are not allowed in any of the commercial zones. Previously, the Ordinance allowed these projects in all the commercial zones through a Minor CUP.
2. The organization of the Ordinance has changed to clarify that the Ordinance will amend, rather than replace Part 15 of the County Code. The existing sections will remain and new sections will be added where appropriate.
3. Some regulations for utility-scale wind energy facilities have been edited to provide consistency within the Ordinance. For example, the climbing apparatus requirement was removed because the regulations for small-scale wind energy systems, which include the same climbing apparatus requirement, apply to utility-scale wind energy facilities as well.
4. Other sections of the Ordinance have been revised to clarify that the existing applicability, application materials, modifications, findings, conditions of approval,

and enforcement provisions in the existing County Code apply for temporary meteorological towers and small-scale wind energy systems. For example, the application materials for small-scale wind energy systems and temporary meteorological towers were removed because they are already provided in Part 15 of the County Code.

5. Other minor revisions were made as well. For example, the definition of “guy wires” and “wind tower” were removed because they are already provided in Part 15 of the County Code.

Other minor edits have been made to correct errors such as incorrect references.

FISCAL IMPACT/FINANCING

Implementation of this Ordinance will not result in any loss of revenue to the County or result in significant new costs to DRP or other County departments. Adoption of the Ordinance will not result in the need for additional departmental staffing. Therefore, no request for financing is being made at this time.

However, the County must adopt a written finding justifying the permit fee for a particular type of project. State legislation establishes limits on the permit fee a local jurisdiction can charge for rooftop solar energy systems, but allows higher permit fees if the local jurisdiction provides substantial evidence of the reasonable cost to issue the permit.

In general, solar energy systems mounted to structures are allowed by right with permits issued by the County Department of Public Works Building and Safety. However, the Minor CUP fee of \$1,494 is associated with rooftop solar energy systems in the R-1 (Single-Family Residence) Zone that are for off-site use, are not mounted to a single-family residence or duplex, and do not exceed the kilowatt thresholds as defined in State legislation for a small residential rooftop solar system. A Minor CUP will allow the County to better regulate these projects while providing a permitting process that is quicker and less expensive than CUPs. The Minor CUP fee of \$1,494 required by County Code Section 22.60.100 was calculated by the fee rates and fee study conducted in 2010 that examined the number of hours it takes to process Minor CUPs, and the study was updated based on updated internal procedures for processing Minor CUPs that will offset the difference.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

A public hearing is required pursuant to Section 22.16.200 of the County Code and Section 65856 of the Government Code. Required notice must be given pursuant to the procedures and requirements set forth in Section 22.60.174 of the County Code. These

procedures exceed the minimum standards of Sections 6061, 65090, and 65856 of the Government Code related to public hearing noticing.

- On **March 18, 2015**, the RPC held a duly-noticed public hearing at the Antelope Valley Transit Authority Headquarters in the City of Lancaster. Thirteen members of the public testified and raised various concerns regarding the Ordinance. The RPC also raised questions for DRP staff, and continued the matter to April 8, 2015.
- On **April 8, 2015**, the RPC held a continued public hearing in downtown Los Angeles. Two members of the public testified via remote testimony from the DRP Antelope Valley Field Office and raised additional concerns regarding the Ordinance. The RPC continued the matter to April 22, 2015 as recommended by DRP staff.
- On **April 22, 2015**, the RPC held a continued public hearing in downtown Los Angeles. Eleven members of the public testified and raised additional concerns regarding the Ordinance. The RPC closed the public hearing and adopted a Resolution recommending that the Board adopt the proposed amendments to Title 22.

During these hearings, members of the public raised concerns regarding the applicability of Community Standards Districts, size of small-scale solar and wind energy systems, landscaped buffer areas, water usage, dust control, noise, impacts to birds and bats, glare, inadequate setbacks, open space conservation, and other concerns. DRP staff has evaluated these concerns and revised the proposed Ordinance when appropriate.

Prior to these public hearings, DRP conducted extensive outreach across a wide and diverse range of stakeholders since the start of this effort in 2011. These include the rural Town Councils in the Antelope Valley, community groups, industry groups, individual property owners and environmental advocates. DRP staff has made themselves accessible to all interested parties in order to provide information and receive comments and feedback, which were incorporated into the Ordinance when appropriate.

Key meetings and important milestones during the development of the Ordinance include:

- November 2011: DRP staff conducted three focus group sessions, one each for renewable energy developers, residents, and environmental organizations.
- October 2013: DRP staff released the first draft of the Ordinance for public review and comment and conducted a community meeting to provide an overview of the Ordinance and receive feedback.

- May 2014: DRP staff released the second draft of the Ordinance for public review and comment.
- September 2014 to January 2015: DRP staff met with various Rural Town Councils in the Antelope Valley, including the Three Points-Liebre Mountain Town Council, Antelope Acres Town Councils, Oso Town Council, and Fairmont Town Council, and the Association of Rural Town Councils to receive feedback on the second draft of the Ordinance.
- June 2015 to July 2015: DRP staff met with additional various community groups, including the East Los Angeles Advisory Committee, Sunshine Park Neighborhood Watch, Walnut Park Chamber of Commerce, Walnut Park Residents, South San Gabriel MASH, Workman Mill Association and Maravilla Community Advisory Board.

Additional correspondence received after the close of the RPC public hearing on April 22, 2015, is also provided for the Board's consideration.

ENVIRONMENTAL DOCUMENTATION

DRP staff has determined that an EIR is the appropriate environmental document for this project.

On April 30, 2014, the County released a Notice of Preparation of an EIR in relation to the Ordinance. Two scoping meetings were held, on May 20, 2014, in the Antelope Valley and another on May 22, 2014, in downtown Los Angeles, to provide a brief presentation on the project and to solicit comments regarding the scope of the EIR.

A Draft EIR was then subsequently released on February 20, 2015. A Notice of Completion and Availability of an EIR and Notice of Public Hearing was mailed to approximately 300 stakeholder individuals and organizations as well as emailed to approximately 2,300 addresses. Furthermore, the Draft EIR and draft Ordinance were made available on the DRP website, in 14 County libraries, at DRP's main office, and all DRP field offices. The Notice of Availability of the EIR and Notice of Public Hearing were published in the Los Angeles Times (full run) on February 16, 2015; Acton Agua Dulce Weekly News and Glendale News-Press on February 18, 2015; and Los Angeles Daily Journal, Antelope Valley Press, La Opinion, and The Signal Newspaper on February 19, 2015.

The formal comment period for the Draft EIR was from February 20, 2015, to April 6, 2015. A complete set of comments received and response to comments are included in the Final EIR that is before the Board for certification. The Significant Unavoidable Impacts identified in the EIR include aesthetics, agricultural and forestry resources, air quality, biological resources, cultural resources, geology and soils, hazards and

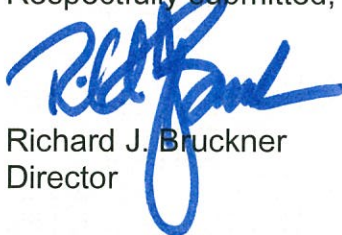
hazardous materials, hydrology and water quality, noise, transportation and traffic, and utilities and service systems.

IMPACT ON CURRENT SERVICES OR PROJECTS

Approval of the Ordinance will not significantly impact County services or projects.

Should you have any questions, please contact Mr. Jay Lee at (213) 974-6476 or by e-mail at jalee@planning.lacounty.gov.

Respectfully submitted,



Richard J. Bruckner
Director

RJB:MC:SMT:JL:jl:ems

Attachments:

1. RPC Project Summary
2. Summary of RPC Proceedings
3. RPC Hearing Packages
4. RPC Resolution
5. Recommended Ordinance for Board Adoption
6. Board Notice of Public Hearing
7. Public Comments received after RPC Hearing
8. Final Environmental Impact Report

c: Executive Office, Board of Supervisors
County Counsel
Assessor
Chief Executive Office
Public Works